IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 13534 of 2007(J)

PETITIONERS:

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1. M.VIJAYAN,
FILED WORKER, NFCP UNIT, PALAKKAD.

2. K.A.VIJAYAKRISHNAN,
FILED WORKER, NFCP UNIT, PALAKKAD.

3. M.SARAVANAN,
FILED WORKER, NFCP UNIT, PALAKKAD.

4. M.K.MANOHARAN,
FILED WORKER, NFCP UNIT, PALAKKAD.

BY ADV. SRI.CHERIAN VARGHESE

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HEALTH SERVICES,
THIRUVANANTHAPURAM.

3. DISTRICT MEDICAL OFFICER OF HEALTH,
PALAKKAD.

4. SRI.P.SARATH KUMAR,
PEON, PRIMARY HEALTH CENTRE, THACHANATTUKARA,
PALAKKAD.

5. SMT.K.DEEPA,
PEON, PRIMARY HEALTH CENTRE, PERINGOTTUKURISSI,
PALAKKAD.

BY ADV. SRI.U.BALAGANGADHARAN
GOVERNMENT PLEADER SRI.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.13534/2006

APPENDIX

PETITIONERS EXHIBITS

EXT.P1: TRUE COPY OF THE QUALIFICATION AND METHOD OF APPOINTMENT FOR THE POST OF JR.H.I.GR.II.

EXT.P2: TRUE COPY OF THE CERTIFICATE OF SANITARYINSPECTORS DIPLOMA ISSUED BY ALL INDIA INSTITUTE OF LOCAL SELF GOVT. TO THE 1ST PETITIONER.

EXT.P3: TRUE COPY OF THE FORWARDING LETTER DATED 27.3.2006 ISSUED BY DMO PALAKKAD.

EXT.P4: TRUE COPY OF THE NOTIFICTION IN THE GAZETTE DATED 31.3.2005.

EXT.P5: TRUE COPY OF THE VACANCY POSITION REPORTED BY LETTER DATED 6.1.2007.

EXT.P6: TRUE COPY OF the GOVERNMENT ORDER DATED 7.3.2007.

EXT.P7: TRUE COPY OF THE ORDER DATED 16.10.2006 PASSED BY 2ND RESPONDENT.

EXT.P8: TRUE COPY OF THE PETITION DATED 18.10.2006 SUBMTITED BY THE FIRST PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P8(a): TRUE COPY OF THE PETITION DATED 18.10.2006 SUBMITTED BY THE SECOND PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P8(b): TRUE COPY OF THE PETITION DATED 18.10.2006 SUBMTITED BY THE THIRD PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P8(c): TRUE COPY OF THE PETITION DATED 18.10.2006 SUBMITTED BY THE 4TH PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P9: TRUE COPY OF THE LETTER DATED 18.10.2006 FORWARDING THE PETITIONS FOR ONWARD TRANSMISSION TO THE 2ND RESPONDENT DIRECTOR.

EXT.P10: TRUE COPY OF THE GOVERNMENT ORDER DATED 4.9.2004.

EXT.P11: TRUE COPY OF THE JUDGMENT DATED 14.11.206 IN WP(C) NO.27991/06.

EXT.P12: TRUE COPY OF THE LETTER DATED 26.3.2007 ISSUED BY 2ND RESPONDENT.

//TRUE COPY//

ANTONY DOMINIC, J.
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W.P.(C) NO. 13534 OF 2007
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Dated this the 24th day of August, 2007

J U D G M E N T

This writ petition is filed seeking to quash Ext.P7 and P12 and to declare that the petitioners are entitled to be promoted as Junior Health Inspector Grade II by virtue of their seniority, higher scale of pay and acquisition of Technical qualification. Similar grievance of another Field Worker was considered by this Court in WP(C) No.10189/07 and that case was disposed of by Ext.P15 judgment. In this case also the application of the petitioners were not considered for the reason that the authorities had considered only the applications received by them upto 20/3/06 and that the petitioners applications were received subsequent to that date. The said action of the respondents was found to be irregular in Ext.P15 judgment and relief was granted in the following terms.

If the applications upto a particular date is received and vacancies which arose till that date is filled up, from among those applicants, the same cannot be described as irregular. In this case, no cut off date was prescribed for receipt of applications and the respondents did not have a case that the vacancies that arose upto 20.3.2006 alone were filled up. In view of the above position,non-consideration of the petitioner's claim, while ordering Ext.P6 cannot be supported. It is declared so. The petitioner's claim for promotion shall be considered, in accordance with law, by the second respondent and he shall be placed in Ext.P6 in a place appropriate to his seniority and scale of pay. For promoting the petitioner, the beneficiaries of Ext.P6 need not be reverted. He may be promoted in one of the existing vacancies in the cadre of Junior Health Inspector Grade-II or in the vacancies that may first arise in future. But, he shall be given notional promotion with effect from the date of Ext.P6 and other consequential benefits payable, in accordance with law. This the second respondent shall do within two months from the date of receipt of a copy of this judgment.

In the light of Ext.P15 judgment, it is declared that the petitioners will also be entitled to similar reliefs.

With the above declaration, this writ petition is disposed of.

ANTONY DOMINIC, JUDGE.

Rp